

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MATTHEW M. DENNIS,
Plaintiff,

v.

GENE DOSIER, et al.,
Defendants.

1:22-cv-00818-HBK (PC)

ORDER DENYING PLAINTIFF'S MOTION
TO APPOINT COUNSEL

(Doc. No. 4)

Pending before the Court is Plaintiff Matthew M. Dennis's motion to appoint counsel, filed on July 5, 2022. (Doc. No. 4). Plaintiff simultaneously filed pro se prisoner civil rights complaint under 42 U.S.C. § 1983. (Doc. No. 1). Plaintiff seeks appointment of counsel using what appears to be a standard form that lists a litany of reasons to support appointment of counsel, including but not limited to: his incarceration, limited access to the law library, layman at law with little legal experience, inability to hire counsel, and complex claims at issue. (*See generally* Doc. No. 4 at 1-9).

The United States Constitution does not require appointment of counsel in civil cases. *See Lewis v. Casey*, 518 U.S. 343, 354 (1996) (explaining *Bounds v. Smith*, 430 U.S. at 817, did not create a right to appointment of counsel in civil cases). Under 28 U.S.C. § 1915, this court has discretionary authority to appoint counsel for an indigent to commence, prosecute, or defend a civil action. *See* 28 U.S.C. § 1915(e)(1) (stating the court has authority to appoint counsel for

people unable to afford counsel); *see also United States v. McQuade*, 519 F.2d 1180 (9th Cir. 1978) (addressing relevant standard of review for motions to appoint counsel in civil cases) (other citations omitted). However, motions to appoint counsel in civil cases are granted only in “exceptional circumstances.” *Id.* at 1181. The court may consider many factors to determine if exceptional circumstances warrant appointment of counsel including, but not limited to, proof of indigence, the likelihood of success on the merits, and the ability of the plaintiff to articulate his or her claims *pro se* in light of the complexity of the legal issues involved. *Id.*; *see also Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *withdrawn in part on other grounds on reh’g en banc*, 154 F.2d 952 (9th Cir. 1998).

Plaintiff has not met his “burden of demonstrating exceptional circumstances.” *Jones v. Chen*, 2014 WL 12684497, at *1 (E.D. Cal. Jan. 14, 2014). Plaintiff’s indigence does not qualify “as an exceptional circumstance in a prisoner civil rights case.” *Montano v. Solomon*, 2010 WL 2403389, at *2 (E.D. Cal. June 11, 2010); *Callender v. Ramm*, 2018 WL 6448536, at *3 (E.D. Cal. Dec. 10, 2018). Normal challenges faced by *pro se* litigants do not warrant appointment of counsel. *Siglar v. Hopkins*, 822 F. App’x 610, 612 (9th Cir. 2020) (denying appointment of counsel because the plaintiff’s “circumstances were not exceptionally different from the majority of the challenges faced by *pro se* litigants.”). Nor is Plaintiff’s inability to find counsel “a proper factor for the Court to consider in determining whether to request counsel.” *Howard v. Hedgpeth*, 2010 WL 1641087, at *2 (E.D. Cal. Apr. 20, 2010).

Further, this case is at the early stages of litigation and the complaint requires a § 1915A screening. Should this case progress and Plaintiff’s circumstances change so that he is able to demonstrate exceptional circumstances, he may renew his motion for appointment at counsel.

Accordingly, it is **ORDERED**:

Plaintiff’s motion to appoint counsel (Doc. No. 4) is DENIED.

Dated: July 12, 2022


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE